

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

\*\*\* FILED \*\*\*  
07/16/2001

07/10/2001

CLERK OF THE COURT  
FORM D000A

HON. MARK F. ACETO

P. Noell  
Deputy

DR 1994-098042

IN RE THE MATTER OF  
MORGAN J MORAN

FILED: \_\_\_\_\_

MORGAN J MORAN  
814 E. CHILTON  
TEMPE AZ 85283-0000

AND

ETHEL E STANECK

ETHEL E STANECK  
847 E LEXINGTON AVE  
GILBERT AZ 85234-0000

RUSSELL SCHOENEMAN  
2222 S DOBSON RD  
BLDG 8 STE 801  
MESA AZ 85202

MINUTE ENTRY

10:04 A.M. This is the time set for hearing on Mother's  
Petition to Modify Child Custody, Visitation and Support.  
Petitioner, Morgan J. Moran, is present on his own behalf.  
Respondent, Ethel-Ella Huzdovich, is present on her own behalf.

Court Reporter, Denise Vaishville, is present.

Morgan J. Moran and Ethel-Ella Huzdovich are sworn.

Discussion is held.

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IT IS ORDERED setting this matter for evidentiary hearing on the Petition re: Modify Child Custody, Visitation and Support on **January 21, 2002 at 1:30 P.M. Time allotted: 1 Hour 30 Minutes**

IT IS ORDERED that the parties, and if represented, counsel shall meet in person no less than five (5) days prior to the date set for hearing, unless an Order of Protection is in effect. At this meeting, the parties and if represented, counsel shall use their best efforts to resolve the issues raised in the petition or motion now scheduled for hearing.

IT IS ORDERED that the parties, and if represented, counsel shall exchange and provide to the Court no less than five (5) days prior to the hearing current affidavits of financial information, any worksheets for support, any exhibits they shall seek to admit into evidence, along with an attached exhibit coversheet, and any lists of witnesses they intend to call at the hearing. Any objections to the proposed evidence must be filed within three (3) days prior to the hearing.

IT IS ORDERED any evidence intended to be submitted as exhibits at the time of the Evidentiary Hearing must be brought to Courtroom 402 at least two (2) business days prior to the hearing, along with an attached cover sheet listing the description of the exhibits.

**APPOINTMENT OF EXPERT**

**IT IS HEREBY ORDERED** appointing Russell Schoeneman, 2222 S. Dobson Rd., Bldg. 8, Ste. 801, Mesa, Arizona, 85202, Telephone (480) 838-3303, to conduct a custody evaluation in this matter.

The evaluator shall consider all relevant factors in assessing the best interests of the child/children (as set forth in A.R.S. 25-403) in conducting the evaluation and rendering an opinion:

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1. The wishes of the parents as to custody;
2. The wishes of the child as to the custodian;
3. The interaction and inter-relationship of the child with the parents, siblings and other persons who may significantly affect the child's best interests;
4. The Child's adjustment to home, school and community;
5. The mental and physical health of all individuals involved;
6. Which parent is more likely to allow the child frequent and meaningful continuous contact with the other parent;
7. If one parent, both parents or neither parent has provided primary care for the child;
8. The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding custody.

If the appointed evaluator cannot comply with the terms stated herein, he or she shall notify counsel and the Court immediately upon receipt of a copy of this Order.

**ROLE OF PARTIES**

The parties to this action and any children common to them shall cooperate with the evaluator to the extent deemed necessary by the evaluator. The parties shall schedule appointments in a timely fashion as directed by the evaluator. The evaluator shall promptly be provided with all required records, reports and documents.

To the extent any tangible items (documents, photographs, tape recordings, etc.) are provided by a party to the evaluator, the party so providing shall ensure that a copy is also supplied to opposing counsel/party in conformity with Rule 26.1 of the Arizona Rules of Civil Procedure.

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**FEES**

The fee for the evaluator shall be paid by Father at the time of service. Father shall provide Mother with proof of payment and Mother shall pay 37% of the fee to Father at the rate of \$200.00 per month beginning the 15<sup>th</sup> day of the first month after Father has made payment and until her share is paid. Fees shall be payable at the time of the first appointment or as directed by the evaluator. In the event any person (including the child/children) fails to appear at the time of an appointment without providing ample advance notice to the evaluator, the party responsible for the missed appointment shall be obligated to pay for the missed appointment in the event there is a charge made for such appointment.

Any costs associated with the production of requested records/documents/tangible items shall be paid promptly by the party from whom such is requested, unless otherwise agreed or ordered.

**PROCEDURES**

1. Initial Contact. Counsel for the parties, or the parties themselves if unrepresented, shall make initial contact with the evaluator through a joint conference or conference call **within ten (10) days** of this Order. This initial conference with the evaluator shall be used to summarize the issues present in the case and to allow the evaluator to request information he or she believes may be pertinent.
2. Methodologies. The evaluator shall identify the procedures/methodologies to be employed during the evaluation. Subject to valid objection, the

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methodologies and employment of psychometric devices (if any) shall be within the scope of the evaluator's discretion sufficient to advise the Court on the issues identified above. The evaluator shall be entitled to receive information from any source if it is the type of data or fact reasonable relied upon by evaluators in forming opinions and/or drawing reasonable inferences upon the issues raised in this proceeding.

If, in the discretion of the evaluator, participation of non-parties is necessary for a thorough evaluation of the issues presented, the evaluator shall contact such person(d) directly. If the evaluator reasonably believes cooperation is necessary but is being withheld by such person, the evaluator shall immediately contact the Court and advise the parties of such contact, through counsel (if applicable).

3. Release of Information. A conformed copy of this Order constitutes a release by the parties of all information requested by the evaluator so long as said information is relevant to these proceedings and the evaluation. To the extent necessary, each party shall execute additional release/consent forms for the evaluator to obtain relevant information, even if such information is otherwise subject to a claim of privilege. If, however, either party opposes the release of information claimed to be privileged, said party shall file a written objection with this Court. If the Court is unable to then determine whether the requested information should be disclosed, the Court shall conduct an **in camera** review of the contested information/documentation prior to dissemination to the evaluator and/or the parties (or counsel).
4. Communications. Counsel shall not have **ex parte** discussions with the evaluator but shall conduct all

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oral communication through conference calls or conferences, unless otherwise agreed between Counsel. Any correspondence, documentation or tangible items of any nature provided by the parties or Counsel to the evaluator shall concurrently be sent to the opposition. If either party requests that non-parties be interviewed/contacted by the expert, a list of such individuals shall be provided to the opposition.

Further, if requested by either Counsel during the course of the evaluation, conference calls or joint conferences may be held to allow Counsel to provide information to assist the evaluator in the ongoing evaluation.

**REPORT OF FINDINGS**

The evaluator shall prepare a written report and submit same to the Court no later than **January 7, 2002**. A copy shall be simultaneously provided to the parties, through counsel (if applicable). Upon receipt by the Court, the report shall not be filed in the legal file but shall be retained as an exhibit or filed in but sealed by the Court.

Any and all documents, interview notes, raw test data and other tangible items relied upon by the evaluator shall be made available to counsel for both parties, upon reasonable request. In addition, the evaluator shall disclose the names and, if known, addresses and telephone numbers of all persons other than the parties with whom the evaluator has had contact with in relation to the evaluation.

**COURT APPEARANCE**

Either party, or the Court upon its own request, may call the evaluator as a witness in this matter. The appearance

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may be by telephone unless either party objects thereto, in writing. Said party shall identify the basis for the objection. The issue of fees for the evaluator relative to his or her Court appearance shall be an issue for later determination.

10:24 A.M. Hearing concludes.

/S/ HON. MARK F. ACETO

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JUDICIAL OFFICER OF THE SUPERIOR COURT